

**HARYANA GOVERNMENT**

**INDUSTRIES AND COMMERCE DEPARTMENT**

**Notification**

The 20<sup>th</sup> April, 2007

**No. S.O. 41/C.A.27/2006/Ss. 21 and 30/2007.**- In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 30 and read with sub section (3) of section 21 of the Micro, Small and Medium Enterprise Development Act, 2006 (Act 27 of 2006), the Governor of Haryana hereby makes the following rules providing for the Composition of the Council, the manner of filling vacancies of its members and the procedure to be followed in the discharge of then functions, namely.

1. (1) These rules may be called the Haryana Micro and Small Enterprises Facilitation Council Rules. 2007.
  - (2) They shall extend to the whole of the State of Haryana.
  - (3) They shall come in to force on the date of their publication in the official Gazette.
2. In these rules, unless the context otherwise requires,-
  - (a) "Act" means the Micro Small and Medium Enterprises Development Act, 2006 (27 of 2006);
  - (b) "Arbitration and Conciliation Act" means the Arbitration and Conciliation Act, 1996 (26 of 1996);
  - (c) "Chairperson" means the Chairperson of the Council appointed under clause (i) of sub-section (1) of section 21;
  - (d) "Council" means the Haryana Micro and Small Enterprises Facilitation Council, established by the Government under section 20 of the Act;
  - (e) "Form" means the form appended to these rules;
  - (f) "Government" means the Government of the State of Haryana;
  - (g) "institute" means any institute or centre providing alternate dispute resolution services referred to in sub-sections (2) and (3) of section 18;

- (h) “Member” means a member of the Council;
- (i) “Section” means a section of the Act;
- (j) Words and expressions used and not defined, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. (a) The Council shall consist of the following members namely:-

- (1) The Director of Industries and Commerce, Haryana : Chairperson
  - (2) The General Manager, Haryana Financial Corporation or his representative not below the rank of Assistant General Manager. : Member
  - (3) The Company Secretary, Haryana State Industrial and Infrastructure Development Corporation. : Member
  - (4) The President or his representative not below the rank of General Secretary of a prominent Industrial Association in the State. : Member
  - (5) Technical Expert (Mechanical Engineer), Department of Industries and Commerce, Haryana. : Member
- (b) When a member of the Council dies or resigns or is deemed to have resigned or is removed from office or becomes incapable of acting as a member, the, Government may by notification in the Official Gazette appoint a person to fill that vacancy.
  - (c) A member other than the Chairperson shall hold office for a period not exceeding two years from the date of his appointment.
  - (d) A member appointed under clauses (ii), (iii) and (iv) of sub-section (1) of section 21 shall cease to be a member of the Council if he cease to represent the category or interest from which he was so appointed.

- (e) Any member of the Council may resign from Council by tendering one month's notice in writing to the Government. The power to accept the resignation of a member shall vest in the Government.
- (f) The Government may remove any member from office if-
  - (i) he is of unsound mind and stands so declared by a competent court; or
  - (ii) he becomes bankrupt or insolvent or suspends payment to his creditors; or
  - (iii) he is convicted of any offence punishable under the Indian Penal Code 1860 (Act 45 of 1860); or
  - (iv) he absents himself from three consecutive meetings of the Council without the leave of the Chairperson, and in any case from file consecutive meetings; or
  - (v) he acquires such financial or other interest as is likely, in the opinion of the Government, to affect prejudicially his functions as a member.
- (g) No Traveling Allowance/Dearness Allowance shall be admissible to the official members attending the meeting of the Council. Official members shall charge the same from their respective department as per normal rules applicable in their case. Non official members shall be paid Rs.100/- for attending each day of meeting besides to and fro first class rail fare or deluxe bus fare on the production of documentary evidence or traveling by own car, otherwise ordinary bus fare will be reimbursed.
- (h) The Council shall conduct its proceedings in office room of the director of Industries and Commerce, Haryana, i.e. the Chairperson of the Council.

4. (1) The Council shall meet, as far as possible, once in a month.

(2) At least seven days' notice shall ordinarily be given for any meeting.

However, in case of urgency a meeting may be called at such shorter notice as the Chairperson may consider sufficient.

(3) The Council may appoint/ or engage the services of one or more experts in terms of section 26 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(4) Both the petitioner as well as respondent shall be liable to pay Rs.2500/- of supplementary deposits to be decided by the Council as deemed fit, separately, along with claim and counter-claim. The Council shall decide on the party entitled to cost, the party who shall pay the cost, the amount of cost and the manner in which the costs shall be paid by passing specific order orders on case to case basis.

(5) The Council, or a party to the dispute with the approval of the Council, may apply to the court under section 27 of the Arbitration and Conciliation Act, 1996 (26 of 1996), for assistance in taking evidence.

(6) The reference/application in Form 1 of the aggrieved micro or small enterprise supplier shall contain full particulars of the petitioner supplier and its status, supplied goods or services, terms of payment, if any, agreed to between the supplier and buyer, actual payment received with date, amount due and the interest duly calculated under section 16, supported by an affidavit, with necessary court fee stamp affixed thereon alongwith initial deposit towards costs of an amount of rupees one thousand by way of demand draft in the name of the Council. The Chairperson may require any petitioner to provide further particulars of the claim or any relevant documents in support of the claim as he may consider necessary for the purpose of the proceedings. If the petitioner fails or omits to do so within fifteen days of receipt of such communication or within such further times as the Chairperson may, for sufficient cause, allow, the Council may terminate the proceedings without prejudice to the right of the petitioner to make fresh reference if he is otherwise entitled so to do. The petitioner shall also simultaneously send a copy of the reference to the buyers or buyers against whom the reference is directed.

(7) The reference/application shall be acknowledged forthwith if it is delivered at the office of the Council. Where the reference/application is received by registered post, its receipt shall be acknowledged on the same day. The Council may require any petitioner supplier to provide any better statement or particulars of claim or any further documents in support of the claim as it may consider necessary for the purpose of the proceedings and if the petitioner supplier fails or omits to do so within thirty days of receipt of any such communication or within such further time as the Council may, for sufficient cause, allow, the Council may terminate the proceedings without prejudice to the right of the petitioner to make any fresh reference if he is otherwise entitled so to do. The Chairperson shall cause the buyer in Form 2 to furnish his detailed response to the reference.

(8) On receipt of a reference under section 18, the Chairperson shall cause the reference and the buyers response thereto to be examined and, on being satisfied with the reference making a prima-facie case of delayed payment, cause the reference to be placed before the Council at its next immediate meeting for consideration. The Chairperson shall also ensure that each reference received within two weeks of the date of the last preceding meeting of the Council is examined and, if found in order, is placed for consideration of the Council at its next immediate meeting. The Council shall if it is satisfied that, on the facts stated therein, it has jurisdiction to proceed with the reference and that the petitioner is entitled under the Act to make a reference, cause a copy of the statement of claim to be sent by registered post to the respondent along with copies of the attached documents and issue notice in Form 2 to the respondent asking him to furnish within fifteen days of receipt of the reference by the buyer or within such further time not exceeding fifteen days, as he may, for sufficient cause allow, a response to the reference in Form 3 with such documents and facts in support of his defense or having a bearing on the matter under reference together with his half share of deposit for costs in such manner as may be specified therein and within the time allowed to the respondent for furnishing his response to the reference.

(9) A copy of the notice in Form 2 shall also be sent by registered post to the petitioner along with a notice in Form 4 calling upon the petitioner to pay a further

amount after adjusting the initial deposit made by him towards his half share of deposit for costs in such manner as may be specified therein and within the time allowed to the respondent for furnishing his response to the reference.

(10) The Council may, on an application made by the respondent showing sufficient cause, allow such further time for the response to the reference as it may consider fit but not exceeding thirty days from the date of dispatch of notice to the respondent of the notice under sub-rule(1).

(11) On receipt of the response to the reference and if the amount of deposits has been paid by the parties, the Council it shall send a copy of the response to the reference to the petitioner and fix a date for appearance and hearing of the parties and issue notice by registered post in Form 5.

(12) If the respondent fails or omits to send a response to the reference within the time allowed to him, the Council shall proceed to fix a date for appearance and hearing of the parties and issue notice by registered post in Form 5.

Provided that if the respondent has failed or omitted to pay his share of the deposit, the council shall call upon the petitioner to pay the share also within fifteen days of receipt of the notice.

Provided further that if the petitioner has not paid the aforesaid share, the Council may suspend or terminate the proceedings.

(13) At the first hearing, the Council shall not proceed to enter upon the merits of the subject matter in dispute, till it has decided on any challenge to jurisdiction or any challenge to any of its member.

(14) The Council shall either itself conduct conciliation in each reference placed before it or seek the assistance of any institute or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation. The provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996), shall apply to such a reference as if the conciliation was initiated under Part III of that Act.

(15) The Council or the institute to which the dispute has been referred for conciliation, shall require the petitioner supplier and the respondent buyers concerned to appear before it by issuing notices to both parties in this behalf. On appearance of both parties, the Council or the institute shall first make efforts to bring about conciliation between the buyer and the supplier. The institute shall submit its report to the Council within fifteen days of reference from the Council or within such period as the Council may specify.

(16) When such conciliation does not lead to settlement of the dispute, the council shall either itself act an arbitrator for final settlement of the dispute or refer it to an institute for such arbitration, in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996). The supplier or the buyer may, either in person or through his lawyer registered with any court, present his case before the Council or the

institute during the arbitration proceedings. The institute shall submit its report to the Council within such time as the Council may stipulate.

(17) Any decision of the Council shall be made by a majority of its members present at the meeting of the Council.

(18) Copy of proceedings of the Council shall be made available to the petitioner and respondent on written request.

(19) The Council shall make an arbitral award in accordance with section 31 of the Arbitration and Conciliation Act 1996, (26 of 1996) and within the time specified in subsection (5) of section 18 of the Act. The award shall be stamped in accordance with the relevant law in force. Copies of the award shall be stamped in accordance with the relevant law in force. Copies of the award shall be made available within seven days of filing of an application.

## Form 1

*[See rule 4(6)]*

### Reference/ Application

1. Form and enclosures to be submitted in quadruplicate. Photocopies, if any, submitted along with the Form, should be attested by a Gazetted Officer.
2. In case of several deliveries/ particulars under the same contract, the relevant particulars may be in the form of an attached statement.

#### **Before the Haryana Micro and Small Enterprises Facilitation Council at Chandigarh.**

- 1 Name of the petitioner.
- 2 Full postal addresses along with telephone and Fax Nos. of the petitioner seller.
- 3 Name of the respondent buyer.
- 4 Full postal addresses along with telephone and Fax Nos. of the respondent Buyer.
- 5 Micro, Small Enterprise Entrepreneur Memorandum along with acknowledgement of the petitioner (copy of Entrepreneur Memorandum with acknowledgement to be enclosed).
- 6 Particulars of the purchase order/contract with the respondent seller in respect of which the amounts are claimed (copy of the purchase order/ contract to be enclosed).
- 7 Date on which the goods were delivered or services rendered to the seller (attach evidence of delivery).
- 8 Date of acceptance of the goods/services or the date of deemed acceptance (attach copies of documents evidence).
- 9 Amount due for the goods delivered (attach copies of bills/invoices).
- 10 Date on which the payment is due or deemed to be due;
- 11 Amounts and dates of receipts of payments, if any.
- 12 Interest claimed under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006) upto the date of reference (attach calculations).
- 13 Total amount claimed up to the date of reference.

- 14 Brief recital of facts of the case.
- 15 Remedies sought.
- 16 Particulars of initial deposit of Rs. 1000/- paid herewith.

Signature of Petitioner

Form 2

*[See rules 4(3) (8) and (9)]*

**The Haryana Micro Small Enterprise Facilitation Council at Chandigarh**

(Established pursuant to section 20 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006)).

Reference No.

To: The respondent above named.

***Subject:*** Notice for calling response to the reference in the case of M/s

**Petitioner**

The above named petitioner has made a reference under sub-section (1) of section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), to this Council for acting as an arbitrator in respect of the amounts claimed.

You are hereby called upon to furnish, within fifteen days of the receipt of this notice, your response to the reference in Form 3 specified under the Haryana Micro and Small Enterprises Facilitation Council Rules, 2007, together with:-

- (a) Such documents and facts in support of your defense or having a bearing on the matter under reference and a deposit amount and

- (b) Your share of deposit as an advance for costs referred to in sub-section (8) of section 31 of the Arbitration and Conciliation Act, 1996 (26 of 1996), by way of a demand draft in the name of Haryana Micro and Small Enterprises facilitation Council Payable at Chandigarh.

A copy of the statement of claim together with the documents submitted therewith is enclosed.

In case you desire to challenge any of the members under sections 12 and 13 of the Arbitration and Conciliation Act, 1996 (26 of 1996), you may send a written statement of the reasons for the challenge within seven days of the receipt of this notice.

Disclosures made under rule 4 read with sub-section (1) of section 12 of the Arbitration and Conciliation Act, 1996 (26 of 1996), from the members is enclosed herewith.

If your response to the reference is not received within the time allowed, the Council shall reject the appeal.

For Chairperson

Form 3

*[See rule 4(8)]*

**Response to the reference**

1. Form and enclosures to be submitted in quadruplicate. Photocopies, if any, submitted along with the Form, should be attested by a Gazetted Officer.
  
2. A copy of the response to the reference is to be sent to the petitioner simultaneously.

**Before the Haryana Micro and Small Enterprises Facilitation Council at Chandigarh.**

- 1 Name of the petitioner seller.
- 2 Name of the respondent buyer.
- 3 Full postal address of the respondent buyer.
- 4 Whether the respondent buyer admits or denies the claim of the petitioner.
  
- 5 Brief response to the reference (attach document and facts in support of defence or having a bearing on the matter under reference).
  
- 6 Particulars of deposit paid herewith.

Signature of the Respondent



**Form 5**

*{See rule 4(11) and (12)}*

**The Haryana Micro and small Enterprises Facilitation Council at Chandigarh.**

(Established pursuant to section 20 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).)

Reference No.

To

M/s

Petitioner

M/s

Respondent

**Subject:- Notice of first Hearing in the case of M/s  
Petitioner vs M/s Respondent.**

Take notice that the arbitral reference shall be heard by the Council at \_\_\_\_\_ hours \_\_\_\_\_ on \_\_\_\_\_ and your appearance in person or by a duly authorized representative is required at the aforesaid time and date.

The respondent has / has not filed his response to the reference.

If you fail or omit to make an appearance, the Council may continue the proceedings and make an award on the evidence before it.

For Chairperson

Enclosure: Copy of response to the reference, if any, to Petitioner.

P.K. CHAUDHARY,  
Financial Commissioner and Principal  
Secretary to Government, Haryana,  
Industries and Commerce Department